

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF INDIANA  
Terre Haute Division



KEVIN JOHNSON,

Plaintiff,

v. Case No.: 2:20-cv-00602-MPB-MJD

ROBERT E. CARTER, et al.,

Defendants.

PLAINTIFF'S MOTION TO DEFER OR DENY DEFENDANTS'  
SUMMARY JUDGMENT MOTION

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Plaintiff pro se pursuant to F.R.Civ.P. 56(d) hereby moves the court to defer or deny defendants' summary judgment motion because:

1. Plaintiff has been and is denied access to and use of his evidentiary materials related to this case and other materials relevant hereto including the record of this case, his work product materials, etc. His custodians have taken and refuse to relinquish such materials to him. He has addressed the undisputed and repeated pattern of his custodians doing this seeking the court's exercise of its summary contempt powers to resolve this without relief. He is therefore forced to seek denial of the SJM because he simply cannot respond to it, due to denial of access to his needed evidentiary and other relevant materials.

2. Plaintiff has several prisoner witnesses whose statements are material to his claims and countering defendants' SJM. He however has no way of obtaining their affidavits or testimony with them located in the Indiana prison system while he is incarcerated in Virginia. He is not permitted to correspond with other incarcerated

persons under Virginia's custodial rules and he also does not have those and other witnesses' names and contact information because his custodians have taken and are withholding his property and records that contain that information.

Plaintiff swears to the truth of the foregoing facts under penalty of perjury.

THEREFORE, this court should defer or deny defendants' Summary Judgment Motion.

Respectfully submitted,



Plaintiff pro se

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